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SUMMARY RECORD OF THE 68th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 27 April, at 4 p.m.

Chairman: Mr. SIMKHADA (Nepal)

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GE.00-13650 (E)

The meeting was called to order at 4.10 p.m.

CONSIDERATION OF DRAFT RESOLUTION UNDER AGENDA ITEM 13

Draft resolution E/CN.4/2000/L.94 (Rights of the Child)

1. Ms. VIVAS (Observer for Uruguay), introducing the revised text of draft resolution E/CN.4/2000/L.94 on behalf of the Group of Latin American and Caribbean States (GRULAC), said that it reflected a global vision of the rights of the child.

2. The structure of the text, based on the provisions of the Convention on the Rights of the Child, was new. Each section of the document highlighted specific measures to be taken on the basis of the general principles stated in the preamble. The preamble had been strengthened by introducing the concept of family as the basic group of society and the natural environment for the development and well-being of children, and by mentioning the new instruments which had been adopted, namely, the two Optional Protocols to the Convention on the Rights of the Child and ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Given the extra work that the two Optional Protocols would involve for the Committee on the Rights of the Child, it was crucial that States should accept without delay the amendment to article 43, paragraph 2, of the Convention, as requested in the draft resolution.

3. In section I of the document the Commission urged States which had not yet done so to sign and ratify the Convention on the Rights of the Child and called upon States parties to implement the Convention fully.

4. Section II, entitled "Protection and promotion of the rights of children" left open the possibility of introducing certain rights each year as priorities changed. It comprised four parts. The first part, on identity, family relations and birth registration, was to a large extent new. The second, dealing with health, also included new paragraphs on the protection, treatment and rehabilitation of children infected or affected by HIV/AIDS. In the third, States were requested to adopt all necessary measures in the area of education, and all relevant actors were encouraged to emphasize respect for human dignity, tolerance and non-discrimination. The fourth part, which reaffirmed the right not to be subjected to violence, was completely new. It was designed to protect children against all forms of violence wherever it might occur.

5. Section III was new and grouped three subjects under the heading of "Non-discrimination": girl children, children with disabilities and migrant children.

6. Section IV discussed the protection and promotion of the rights of children in particularly vulnerable situations (children working and/or living on the street, refugee and internally displaced children, children working in conditions contrary to internationally acceptable standards and children alleged to have or recognized as having infringed the penal law).

7. Sections V and VI listed the measures to be taken in the areas of prevention and eradication of the sale of children, child prostitution and child pornography, as well as the

protection of children affected by armed conflict. Section VII set forth measures designed to promote the recovery and social reintegration of child victims of violations of rights, as provided for under the Convention.

8. A change should be made in the thirteenth paragraph of the preamble so as to take into account the adoption of the Optional Protocols to the Convention on the Rights of the Child. The words "the relevant Working Groups of" should be deleted and the words "by its resolution ... of 26 April 2000" added before "of a draft optional protocol". The beginning of the paragraph would then read as follows "Welcoming the adoption by the Commission on Human Rights, by its resolution ... of 26 April 2000, of a draft optional protocol ...".

9. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that the draft resolution was being sponsored by all the members of GRULAC and of the European Union. The list of all the sponsors was now as follows: Albania, Algeria, Argentina, Australia, Bangladesh, Belarus, Botswana, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Georgia, Greece, Haiti, Honduras, Hungary, India, Ireland, Israel, Japan, Liechtenstein, Lithuania, Luxembourg, Nepal, New Zealand, Nicaragua, Pakistan, Paraguay, Peru, Philippines, Poland, Rwanda, San Marino, Saudi Arabia, Senegal, Slovakia, Slovenia, Spain, Swaziland, Switzerland, Togo, Tunisia, Turkey, Ukraine and Viet Nam.

10. Mr. PETIT (France), speaking on a point of order, asked what official document was under consideration.

11. Ms. IZÉ-CHARRIN (Secretary of the Commission) explained that the text of the revised version of draft resolution E/CN.4/2000/L.94 had been distributed the previous evening to all participants on the request of GRULAC and of the European Union. The final text of the draft would be issued as document E/CN.4/2000/L.11. As that version was not yet available, the Commission was considering document E/CN.4/2000/L.94, in its revised form.

12. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union, noted with satisfaction the new structure of the draft resolution, which was a significant improvement. Not only did it reflect recent developments in respect of the rights of the child but its content was also now more accessible to the wider public.

13. The European Union also welcomed the cooperation that had been established between it and GRULAC, which it hoped would be strengthened, as well as the active participation of many other delegations whose contributions had enriched the discussions.

14. During the negotiations the European Union had agreed to several changes in the draft resolution in order to accommodate the concerns of one member of the Commission. It thought that those concessions, which concerned references to the Convention on the Rights of the Child, would enable that delegation to become a sponsor of the Resolution, which unfortunately had not been the case. The European Union therefore wished to state that the wording of the provisions that had been amended should not be regarded as setting a precedent, and that it reserved the right to revert to the matter subsequently.

15. Mr. PETIT (France), having thanked the Secretariat for its explanations, said that France welcomed the adoption of the two Optional Protocols to the Convention and hoped that they would soon come into force. He urged all States to become parties to them and to implement them without delay. Emphasizing the importance of the principles of non-selectivity and universality in human rights matters, he drew attention to paragraph 2 of the draft resolution. By ratifying the Convention without delay, as the Commission had urged, States which had not yet done so would confirm the commitment which they had assumed during the negotiation of the two Protocols and which had led the participating States to allow them to become parties to those new instruments without having ratified the basic Convention. Belgium, moreover, shared that point of view.

16. Ms. KWIECINSKI (Secretariat) said that the draft resolution would not have any financial implications.

17. Draft resolution E/CN.4/2000/L.94, as revised, was adopted without a vote.

18. Mr. KOH (United States of America) said that his delegation was pleased to associate itself with the consensus on draft resolutions E/CN.4/2000/L.94 (Rights of the Child) and E/CN.4/2000/L.62 (Question of draft optional protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography). It hoped that the Economic and Social Council and the General Assembly would adopt those protocols rapidly, and that they would be rectified and implemented without delay by all countries. His delegation welcomed the provisions that enabled the United States to become a party to the protocols even though it was not a party to the Convention. Although the United States had become a signatory, the instruments still had to be approved by the Senate. Human rights commitments should be judged by acts as well as words, and he noted that his Government had done its utmost to protect the rights of the child by adopting practical and legal guarantees.

19. The CHAIRMAN said that the Commission had concluded its consideration of agenda item 13.

CONSIDERATION OF DRAFT RESOLUTION UNDER AGENDA ITEM 18

Draft resolution E/CN.4/2000/L.82 (Human rights and thematic procedures)

20. Mr. SOMOL (Czech Republic) said that consultations had made it possible to reach a consensus on the text. At the request of the Cuban delegation, it had been decided that the following paragraph would be added to the end of the preamble:

> "Noting further that members of particular groups, including but not necessarily limited to, national or ethnic, religious and linguistic minorities, migrants, human rights defenders, indigenous persons, persons with disabilities, persons affected by human immunodeficiency virus/acquired immune deficiency syndrome and elderly persons may be especially vulnerable to abuses of their human rights and may deserve specific attention in the context of reporting on violations of their human rights,".

21. Consequently, the words "and members of other vulnerable groups" should be deleted from what became the penultimate paragraph of the preamble.

22. Ms. IZÉ-CHARRIN (Secretary of the Commission) announced that Belarus had also become a sponsor of the draft resolution.

23. Ms. KWIELINSKI (Office of the United Nations High Commissioner for Human Rights) said that the draft resolution did not have any financial implications.

24. Draft resolution E/CN.4/2000/L.82, as amended orally, was adopted without a vote.

25. Mr. KOH (United States of America), recalling that his country had joined the consensus on draft resolution E/CN.4/2000/L.89 (Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region), wondered how the various activities proposed following the eighth workshop held in Beijing from 1 to 3 March 2000, as described in the annex to the Secretary-General's report (E/CN.4/2000/102), would be financed. His delegation intended, together with the Office of the United Nations High Commissioner for Human Rights and the sponsors of the resolution, to seek ways of funding those activities through existing resources and/or voluntary contributions. It also hoped to discuss the matter, along with others raised during the eighth workshop - and in particular proposals for the participation of national human rights institutions in organizing the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance - with the delegations of States from the region.

26. The CHAIRMAN said that the Commission had concluded its consideration of agenda item 18.

CONSIDERATION OF DRAFT RESOLUTION UNDER AGENDA ITEM 15

Draft resolution E/CN.4/2000/L.68 (Establishment of a Permanent Forum on Indigenous Issues)

27. Mr. LEHMANN (Observer for Denmark) said that, following frank and constructive consultations, delegations had agreed to amend paragraphs 1 and 8 of draft resolution E/CN.4/2000/L.68. In paragraph 1, it had been decided first, to replace the words in parentheses by the following "Following formal consultation with the Bureau and the regional groups through their coordinators" and secondly, to add the following words before the semi-colon: "including internal processes, when appropriate, and local indigenous consultation processes;". As for paragraph 8, it would read as follows: "Further decides that once the Permanent Forum has been established and has held its first annual session, the Council will, without prejudging any outcome, review all existing mechanisms, procedures and programmes with the United Nations concerning indigenous issues, including the Working Group on Indigenous Populations, with a view to rationalizing activities, avoiding duplication and overlap and promoting effectiveness."

28. Mr. ALFONSO MARTINEZ (Cuba) thanked the Danish delegation for having achieved a consensus on the text under consideration. Unfortunately, as it had not been possible to accommodate all the concerns that had been voiced, the Cuban delegation requested a separate

vote on paragraphs 1 and 8 of the draft resolution. Furthermore, he proposed the addition of the following new paragraph to the preamble: "Stressing that the establishment of a Permanent Forum on Indigenous Issues should not necessarily result in the abolition of the Working Group on Indigenous Populations" because for a long time certain delegations had wanted the Working Group on Indigenous Populations to be phased out as soon as the permanent forum was established. Yet the Working Group played a very important role for those populations, and even if it had perhaps been controversial at times, it had the merit of promoting a better understanding of the problems of indigenous peoples. His delegation therefore wished to dissociate the establishment of a permanent forum from the abolition of the Working Group. Financing was not the problem. The Working Group on Indigenous Populations cost only $20,000 whereas the proposed forum would be incomparably more expensive.

29. Ms. MBONU (Nigeria) supported Cuba's position. Paragraph 8, as modified by the Danish delegation, was not satisfactory because it drew attention to the Working Group on Indigenous Populations and, as a result, gave the impression that it should be treated in a different manner.

30. Mr. LEHMANN (Observer for Denmark) said he was extremely surprised by the Cuban representative's statement, since the point he had raised had been discussed during the informal consultations and it had seemed that the situation was clear to everyone. In his view, the text he had proposed was quite neutral. It simply said that when the forum became operational the Economic and Social Council would consider all mechanisms relating to indigenous populations, including the Working Group on Indigenous Populations. The new paragraph proposed by Cuba, on the other hand, was not at all neutral. It stood as a kind of warning to the Economic and Social Council, from the outset indicating what it should or should not do. He appealed to the Cuban delegation to let the wording he had proposed stand.

31. Mr. DO NASCIMENTO (Brazil) said that although he supported the text proposed by the Danish delegation he was not opposed to the addition of a new paragraph, as suggested by the Cuban representative, who had always been in favour of setting up an independent forum for indigenous peoples. His sincerity was therefore unquestionable and his concern about the possible disappearance of the Working Group on Indigenous Populations was legitimate.

32. Mr. GONZALEZ DE LINARES PALOU (Spain) said that he too understood the concerns expressed by the Cuban delegation. Under Ms. Daes's guidance the Working Group on Indigenous Populations had done remarkable work and the establishment of a permanent forum should not automatically lead to its abolition. There was a very simple way out of the dilemma faced by the Commission in E/CN.4/2000/L.68: the amendment proposed by the Cuban delegation could be slightly modified. What the Spanish delegation objected to in that amendment was the word "abolition", because it seemed to prejudge the outcome of the Economic and Social Council's consideration of the matter. He therefore suggested the following new wording: "Stressing that the establsihment of the permanent forum should lead to a careful consideration of the future of the Working Group on Indigenous Populations". That wording was also more constructive than that proposed by the Cuban representative.

33. Ms. RODRIGUEZ-MANCIA (Guatemala) regretted that, despite all the Danish delegation's efforts and the compromises made on both sides, more headway had not been made

on that draft resolution. Her delegation did not object to the content of the amendment proposed by the Cuban representative even if it disrupted the balance of the text, provided that the wording proposed by the Spanish delegation was retained. In any event, he was not in favour of a separate vote on paragraphs 1 and 8 in their revised form.

34. Mr. MENDONÇA E MOURA (Portugal) was of the view that the Spanish amendment was most ingenious and urged all delegations to accept it.

35. Mr. ALFONSO MARTINEZ (Cuba) thanked the Brazilian, Portuguese and Spanish delegations for their statements. He pointed out that it was not Cuba that had linked the establishment of a permanent forum to the abolition of the Working Group on Indigenous Populations. It was the Bureau of the Commission at its fifty-fourth session that had first brought the matter up in 1998. The possibility of its abolition was, moreover, mentioned in paragraph 56 of the ad hoc working group's report on the permanent forum (document E/CN.4/2000/86) in the following terms "Many indigenous representatives stated that the establishment of the permanent forum should not result in the abolition of the Working Group on Indigenous Populations".

36. His delegation would be prepared to accept the wording proposed by the Spanish representative subject to the addition of the following words at the end: "to avoid needless duplication of the respective mandates of the two bodies", which would emphasize that there was no contradiction between the mandate of the Working Group on Indigenous Populations and that of the permanent forum.

37. The CHAIRMAN suggested the adjournment of the meeting to enable the Cuban, Danish, Guatemalan, Nigerian and Spanish delegations to hold consultations on the amendments proposed.

38. The meeting was suspended at 5.25 p.m. and resumed at 6.15 p.m.

39. Mr. ALFONSO MARTINEZ (Cuba) regretted that the consultations had not led to a compromise. He wished to point out that the wording he proposed adding in fact represented a concession, in that it placed the Working Group on Indigenous Populations, which existed and had a clear mandate, on the same footing as the permanent forum, which did not yet exist. That was why Cuba would support that wording if it were put to a vote.

40. Mr. GONZALEZ DE LINARES PALOU (Spain) was of the view that the wording he had proposed was positive and perfectly neutral, whereas Cuba's sub-amendment established an unnecessary link between the two bodies; all aspects of the question should be taken into account and not only the issue of mandates.

41. Mr. HYNES (Canada) supported the Spanish representative's proposal since it left all options open. The text was more balanced than that proposed by the Cuban representative which anticipated the results of the Economic and Social Council's examination of mechanisms relating to indigenous peoples.

42. Mr. WANG Min (China) requested the Secretary of the Commission to read out the Cuban sub-amendment to be voted on by the Commission.

43. Ms. IZÉ-CHARRIN (Secretary of the Commission) said that the wording that the Cuban representative had proposed should be added to the amendment proposed by Spain was as follows: "to avoid needless duplication of the respective mandates of the two bodies".

44. Ms. MBONU (Nigeria) supported the Cuban text and regretted the lack of flexibility shown by certain delegations.

45. Ms. RODRIGUEZ-MANCIA (Guatemala) felt that the sub-amendment proposed by the Cuban representative was unnecessary. Paragraph 8 of the draft resolution already spelled out the need to avoid duplication and overlaps.

46. Ms. NASCIMBE DE DUMONT (Argentina) agreed with the Guatemalan representative. If the Cuban sub-amendment were put to the vote she would vote against.

47. Ms. JANJUA (Pakistan), referring to rule 65 of the rules of procedure of the functional commissions of the Economic and Social Council, pointed out that proposals had to be voted on in the order in which they had been submitted.

48. Mr. GONZALEZ DE LINARES PALOU (Spain) said that in the present case it was article 64 that was applicable. In other words, when two or more amendments were moved to a proposal, the amendment furthest removed in substance from the original proposal was to be voted on first.

49. At the request of the representative of Cuba, a vote was taken by roll-call on the sub-amendment proposed by Cuba to the text proposed by Spain.

In favour: Brazil, Burundi, China, Cuba, Nigeria, Pakistan, Republic of the Congo, Russian Federation, Sudan, Swaziland, Zambia.

Against: Argentina, Canada, Chile, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, Italy, Japan, Latvia, Luxembourg, Norway, Peru, Poland, Portugal, Romania, Spain, United Kingdom of Great Britain and Northern Ireland and United States of America.

Abstaining: Bangladesh, Bhutan, Botswana, Colombia, India, Indonesia, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Phillipines, Qatar, Republic of Korea, Rwanda, Senegal, Sri Lanka, Tunisia, Venezuela.

50. The sub-amendment proposed by Cuba to the text proposed by Spain was rejected by 21 votes to 11, with 20 abstentions.

51. Mr. ALFONSO MARTINEZ (Cuba) pointed out that the wording proposed by Spain was positive only in appearance, because mention of the future of the Working Group was tantamount to casting doubt on its future existence. As a result, if the amendment proposed by Spain to his own amendment was put to the vote he would vote against.

52. Ms. IZE-CHARRIN (Secretary of the Commission) once again read aloud the text proposed by Cuba and redrafted by Spain: "Stressing that the establishment of the permanent forum should lead to a careful consideration of the future of the Working Group on Indigenous Populations".

53. Ms. RODRIGUEZ-MANCIA (Guatemala) said that she fully agreed with that wording, which in no way prejudged the future of the Working Group. She hoped that delegations would support that text.

54. At the request of the representative of Cuba, a vote was taken by roll-call on the text proposed by Spain.

In favour:	Argentina, Canada, Chile, El Salvador, France, Germany, Guatemala, Italy, Japan, Latvia, Luxembourg, Mexico, Norway and Spain.
Against:	Burundi, China, Cuba, Nigeria, Russian Federation, Switzerland.
Abstaining:	Bangladesh, Bhutan, Botswana, Brazil, Colombia, Ecuador, India, Indonesia, Madagascar, Morocco, Mauritius, Nepal, Niger, Pakistan, Phillipines, Qatar, Republic of Korea, Republic of the Congo, Rwanda, Senegal, Sri Lanka, Sudan, Tunisia, United States of America,Venezuela, Zambia.

55. The text proposed by Spain was adopted by 20 votes to 6, with 26 abstentions.

56. After an extensive procedural discussion in which Mr. ALFONSO MARTINEZ (Cuba), Ms. MBONU (Nigeria), Ms. RODRIGUEZ-MANCIA (Guatemala), Mr. CHAVEZ (Peru), Mr. OYARCE (Chile), Mr. GONZALES DE LINARES PALOU (Spain), Mr. BHATTI (Pakistan), Mr. KOH (United States of America) and Mr. JAKUBOWSKI (Poland) took part on the follow-up to the amendment initially proposed by Cuba and redrafted by Spain, the CHAIRMAN decided to suspend the meeting.

57. The meeting was suspended at 7.10 p.m. and resumed at 7.20 p.m.

58. The CHAIRMAN said that a consensus had emerged in favour of maintaing the paragraph proposed by Cuba and amended by Spain.

59. Paragraph 1 of draft resolution E/CN.4/2000/L.68, as amended by the Danish delegation, was adopted by 43 votes to none, with 9 abstentions.

60. Paragraph 8 of draft resolution E/CN.4/2000/L.68, as redrafted by the Danish delegation, was adopted by 35 votes to none, with 16 abstentions.

61. At the request of the representative of Guatemala, a vote was taken by roll-call on the draft resolution as a whole.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Brazil, Canada, Chile, China, Colombia, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Luxembourg, Mexico, Nepal, Norway, Pakistan, Peru, Phillipines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, Spain, Sri Lanka, Swaziland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zambia.

Against: None.

Abstaining: Burundi, Cuba, Madagascar, Mauritius, Morocco, Niger, Nigeria, Republic of the Congo, Sudan.

62. Draft resolution E/CN.4/2000/L.68, as amended, was adopted by 43 votes to none with 9 abstentions.

63. Mr. SABHARWAL (India) said that his delegation had voted for the draft resolution, but but recalled that the Coordinator of the Group of Asian States had expressed reservations about the text when the draft resolution was being discussed on 25 April. The Indian delegation maintained its reservations and hoped that they would be taken into account when the matter was taken up subsequently.

64. Mr. KOH (United States of America) said that although his delegation had voted for the draft resolution it was still concerned about the way in which future members of the permanent forum were to be selected as well as by the financial viability of the project. It hoped that future members would be selected in a transparent manner and had therefore supported paragraph 1, as reworded by the Danish representative. On the other hand, as his delegation was convinced that the Working Group on Indigenous Populations should cease to exist once the permanent forum was created, it had abstained from the vote on paragraph 8.

65. Mr. OYARCE (Chile) regretted that it had been necessary to vote on the text. The lesson to be learned from the debate, nevertheless, was that a transition period was absolutely necessary so that the functioning of the permanent forum and other mechanisms relating to indigenous populations could be evaluated.

66. Ms. RODRIGUEZ-MANCIA (Guatemala) welcomed the fact no delegation had voted against the draft resolution creating a permanent forum. Guatemala, half of whose population was indigenous, attached particular importance to the matter, and it hoped that the Economic and Social Council would take favourable action on the resolution. In her view the concerns expressed by several delegations in connection with the selection of forum members were allayed by paragraph 7, which stated that the Economic and Social Council would evaluate the method used for the selection of members. Lastly, she said that her delegation, which shared the views of the Chilean delegation concerning the need for a transition period, believed the body should be called the Forum of Indigenous Peoples.

67. Mr. LORD (Canada) said he shared the satisfaction expressed by other delegations at the adoption of a text that marked a historic turning point and that had been in the planning stage for so long.

68. Mr. ALFONSO MARTINEZ (Cuba) said that he had abstained from the vote on the draft resolution because, in his opinion, the text had not been considered in sufficient depth. In particular, it did not remove persistent doubts about the fate of the Working Group on Indigenous Populations. He was convinced that it would no longer exist in two years' time. Adoption of the draft resolution had simply put off the inevitable.

69. Mr. ROSENBERG (Ecuador) said that his delegation had supported the draft resolution, because in its view the text did not necessarily imply the end of the Working Group on Indigenous Populations which for years had effectively served the cause of indigenous rights.

The meeting rose at 7.45 p.m.